

SENATE BILL REPORT

SHB 1420

As of March 23, 2009

Title: An act relating to real estate seller disclosure.

Brief Description: Revising real estate seller disclosure requirements.

Sponsors: House Committee on Commerce & Labor (originally sponsored by Representatives Conway, Condotta, Maxwell, Williams, Chandler, Wood, Hinkle and Kelley).

Brief History: Passed House: 3/03/09, 97-0.

Committee Activity: Financial Institutions, Housing & Insurance: 3/17/09.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS, HOUSING & INSURANCE

Staff: Philip Brady (786-7460)

Background: A seller of residential land must provide a buyer with a disclosure statement about the land unless the buyer waives the right to receive it. This requirement applies to sales of both unimproved and improved residential land.

The disclosure forms for improved and unimproved properties are specified in statute and include items like water, sewer/septic systems, electrical/gas, flooding, soil stability, environmental, manufactured and mobile homes, and homeowners' association/common interests.

The disclosure statement must be provided within five business days after mutual acceptance of a written purchase agreement between a buyer and a seller, or as otherwise agreed to. The buyer has the right to approve and accept the statement or rescind the purchase agreement within three business days of receiving the disclosure statement. If the seller fails to provide the statement, the buyer may rescind the transaction until the transfer has closed. If the disclosure statement is delivered late, the buyer's right to rescind expires three days after receipt of the statement. If the seller learns of additional information or an adverse change that renders disclosure inaccurate, the seller must amend the disclosure and deliver the amended form to the buyer.

Summary of Bill: The definition of unimproved property is changed to include only properties that are not commercial or timber lands and for which maximum permitted development is one to four residential units. Sellers are not required to provide disclosure

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forms for buyers who want the property for agricultural, commercial, investment, or other business purposes. Sellers are only required to amend disclosures to address additional information or adverse changes if that additional information or knowledge of the adverse change does not come from the buyer or persons acting on the buyer's behalf. Some technical changes are made, and the disclosure forms for both improved and unimproved properties are changed.

For unimproved properties, only covenants, conditions, and restrictions recorded against the title must be disclosed; all problems or needed repairs to the water system must be disclosed, whether known or not; flooding, standing water, or drainage problems that affect the property or access to it, and fill dirt, waste, or other fill material questions are moved to the environmental section of the disclosure form rather than their own specific sections; rather than needing to disclose all substances, materials, or products in or on the property that may be environmental concerns, only violations of environmental law must be disclosed; groundwater or soil contamination does not need to be disclosed; electrical utility equipment only needs to be disclosed if it does not serve the property; and only cell towers that cause actual interference with cellular reception need to be disclosed.

Improved properties disclosure forms have the same changes to covenant, condition and restriction disclosure, water system problems, environmental disclosures, groundwater and soil contamination disclosure, and electrical utility equipment disclosures. In addition, sellers must answer questions about the amount of water withdrawn from a water source; the presence of defects in the water system; whether the roof is currently leaking instead of whether it has ever leaked; and the presence of wood-burning appliances and their certification status with the U.S. Environmental Protection Agency clean-burning appliances standards.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is one of Washington Realtor's top priorities this session. The striker submitted to staff will address some issues raised by the sponsor and the Department of Ecology.

Persons Testifying: PRO: Bob Mitchell, Washington Realtors.